

J & P CORPORATION

IBLA 73-269

Decided September 20, 1973

Appeal from decision by Wyoming State Office, Bureau of Land Management, rejecting applications for coal leases.

Set aside and remanded.

Coal Leases and Permits: Applications! ! Coal Leases and Permits:
Leases

Where a coal prospecting permittee demonstrates that lands described in its permit contain coal in commercial quantities, the permittee is entitled to a lease to such lands.

APPEARANCES: Violet Pavkovich, Secretary! Treasurer of J & P Corporation, for appellant.

OPINION BY MR. FISHMAN

The J & P Corporation has appealed from a decision of the Wyoming State Office, Bureau of Land Management, dated January 22, 1973, which rejected its applications for coal leases.

The applications were made under the authority of the Mineral Leasing Act of 1920, as amended, 30 U.S.C. § 201(b) (1970). Appellant was the holder of coal prospecting permits (W-9034, W-9035, W-9036) and submitted data to the Geological Survey asserting that the lands described in its permits contained coal in commercial quantities. 43 CFR 3520.1-1.

The Bureau rejected the applications on the basis that the drill hole records and information submitted to the Geological Survey failed to disclose that coal was discovered in commercial quantities on the lands described in the permits.

Appellant did not appeal the rejection of lease applications W-9034 and W-9035; therefore, the decision has become final as to those applications. It did appeal the rejection of lease application W-9036.

The lease application in issue, W-9036, included lands described as the S 1/2 sec. 24, and the N 1/2 N 1/2 sec. 25, T. 47 N., R 71 W., 6th P.M., Campbell County, Wyoming, containing approximately 480 acres. By letter dated August 2, 1973, appellant withdrew its appeal as to 400 acres so that the appeal only relates to two 40! acre tracts described as the SW 1/4 SW 1/4 sec. 24, and the NW 1/4 NW 1/4 Sec. 25, T. 47 N., R. 71 W., 6th P.M., Campbell County, Wyoming.

By letter of July 12, 1973, this Board requested the Geological Survey to reconsider its recommendation. The Geological Survey, by letter dated August 21, 1973, responded to the Board as follows:

The two 40! acre tracts covered by the amended appeal contain seven drill holes which penetrated coal of minable thickness. The holes delineate two small areas totaling about 8 acres that contain about 200,000 tons of coal. A detailed review of the mechanical logs of the seven drill holes together with other information now available, show with reasonable certainty that the two 40! acre tracts contain coal in commercial quantities.

The reconsideration by Survey affords a sufficient basis for our setting aside the decision as to the 80 acres involved in this appeal. Where, as here, a coal prospecting permittee has demonstrated that lands in its permit contain coal in commercial quantities, the permittee is entitled to a lease to such lands. 30 U.S.C. § 201(b) (1970); 43 CFR 3520.1-1. Peter I. Wold, II, 13 IBLA 63, 80 I.D. __ (1973).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is set aside and the case remanded for action consistent with this decision.

Frederick Fishman
Member

We concur:

Anne Poindexter Lewis
Member

Joan B. Thompson
Member

